



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,843	02/15/2001	John T. Hurst	30788-00016	3829

7590 11/15/2004

Steven E. Shapiro, Esq.
MITCHELL SILBERBERG & KNUPP LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

EXAMINER

BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
----------	--------------

2142

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,843

Applicant(s)

HURST ET AL.

Examiner

Douglas B Blair

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-12 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-12 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DBB

DETAILED ACTION

Response to Amendment

1. Claims 1, 5-12, and 15-20 are currently pending in the application.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the manifest file including plural sets of information describing how to assemble the chunks of data in a different predetermined manner, as claimed in claims 10 and 20, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

Art Unit: 2142

and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5-12, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,289,389 to Kikinis in view of RFC 1321 by Rivest.

5. As to claim 1, Kikinis teaches a method for use in delivering programming content, said method comprising: dividing the programming content into smaller chunks of data (col. 8, lines 31-45); creating a chunk file for each chunk of data, said chunk file including said chunk of data (col. 8, lines 31-45); generating a manifest file that includes information describing how to assemble the chunks of data (col. 8, lines 31-45); transmitting the chunk files created and the manifest generated to a remote location, wherein at least some of the chunk files are transmitted on at least one physical medium (col. 8, lines 31-45); however Kikinis does not explicitly teach the use of a message digest.

Rivest teaches the use of a message digest for verifying integrity of data (See executive summary).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Kikinis regarding the use of chunk files for

Art Unit: 2142

transmitting data with the teachings of Rivest regarding the use of a message digest because a message digest is a computer networking standard and thus a well known method for verifying the integrity of data received. U.S. Patents Patents 5,765,176, 5,745,574 and 5,692,047 are some examples of publications that illustrate the use of message digests.

6. As to claim 5, Kikinis teaches a method wherein chunk files are distributed across a set of said physical media, and wherein each of said physical media in the set contains the manifest file (col. 8, lines 31-45).

7. As to claim 6, Kikinis teaches a method wherein at least one file is transmitted electronically and at least one of the files is transmitted on a physical medium (col. 8, lines 31-45).

8. As to claim 7, for reasons discussed in the rejection of claim 1, it would have been obvious to use a message digest to verify the integrity of programming content.

9. As to claim 8, for reasons discussed in the rejection of claim 1, it would have been obvious to use a message digest to verify each chunk of data.

10. As to claim 9, Kikinis teaches a method wherein the manifest file identifies each chunk of data in the programming content (col. 8, lines 31-45).

11. As to claim 10, Kikinis teaches a method wherein the manifest file includes plural sets of information, each set of information describing how to assemble the chunks of data in a different predetermined manner (col. 8, lines 31-45).

12. Claims 11-12 and 15-20 are rejected for similar reasons to claims 1 and 5-10.

Response to Arguments

Art Unit: 2142

13. Applicant's arguments, see Remarks, filed 9/20/2004, with respect to the previously presented drawing objections have been fully considered and are persuasive. The previous objection to the drawings has been withdrawn.

14. Applicant's arguments filed 9/20/2004 with regard to claims 1 and 11 have been fully considered but they are not persuasive. The applicant argues the following points with regard to claims 1 and 11: (a) The applied art does not disclose or suggest at least the feature of using a manifest file describing how to assemble chunks of data contained in separate chunk files that are transmitted on one or more physical media; (b) The communications channels disclosed by Kikinis do not involve delivery of content as any physical medium; (c) The division technique and division key described by Kikinis is significantly different than sending chunk files on one or more physical media and utilizing a manifest file in connection therewith; (d) Nothing in either Kikinis or Rivest would have suggested including such a message digest in a separate manifest file as opposed to an individual chunk file; (e) There is no motivation for adding a message digest to each chunk of data; and (f) The manifest file including plural sets of information, with each set of information describing how to assemble the chunks of data in a different manner is not disclosed or suggested by the applied art..

15. As to point (a), the division key taught by Kikinis describes how to assemble chunks of data contained in separate chunk files.

16. As to point (b), the applicant's claim language states that the chunk files are transmitted on at least one physical medium. The data sent via satellite communication taught by Kikinis can be considered chunks, with the physical medium that the satellite signal transverses being the atmosphere. The phrase "transmitted on at least one physical medium" is extremely broad.

Art Unit: 2142

17. As to point (c), the division technique and division key described by Kikinis reads on the extremely broad terminology in the applicant's claims.

18. As to point (d), the motivation for providing a message digest is well known. Since the division key is the only thing sent to the recipient of the message, aside from the chunk data, then it is the only obvious place to put a message digest for the entire message.

19. As to point (e), the motivation for providing a message digest with a message is well known.

20. As to point (f), the division key can be considered to have plural sets of information describing how to assemble the chunks of data in a different matter. Specifically the division key is responsible for making sure that each chunk is assembled in its proper order. The applicant's claim language is very broad and describes nothing specific.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2142


however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 703-305-5267. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair


JACK D. HARVEY
SUPERVISORY PATENT EXAMINER